

TAKOMA PARK CODE

GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS.

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Sec. ~~1-1.~~ 1-100. Designation and citation of the Code.

The ~~laws~~ ordinances contained in the following ~~titles,~~ chapters, ~~Articles~~ and sections shall constitute and be designated as the “~~The~~ City of Takoma Park Code, 1972.” and may be so cited. The Code may also be cited as the “Takoma Park Code” or as “City Code” or in the provisions which follow, as “this Code.”

Sec. ~~1-2~~ 1-101. Rules of ~~interpretation.~~ construction and definitions.

~~—(a)~~ The following rules of interpretation apply to In the construction of this Code and of all ordinances, and resolutions, and regulations of the City ; the following rules shall be observed,

~~unless such construction would be inconsistent with the manifest intent of the Council or~~ unless the context clearly requires otherwise.

~~————— (1) — *Building* shall mean any structure or part thereof, having a roof supported by columns or walls for shelter, support, or enclosure of persons, animals, or chattels. When any portion is completely separated from all other portions by a division wall from the ground up to the roof and without any door or other opening, such portion shall be deemed a separate building.~~

~~————— (2) — *Business* shall include businesses, professions, trades, occupations and callings, or operation of private institutions of all and every kind, whether carried on for profit or not.~~

~~————— (3) — *City* shall mean the City of Takoma Park, Maryland, or the area within the territorial City limits of this City and territory outside of this City over which the City has jurisdiction or control.~~

~~————— (4) — *Clerk* shall mean the City Clerk of Takoma Park, Maryland.~~

~~————— (5) — *Council* shall mean the City Council of Takoma Park, Maryland.~~

~~————— (6) — *Gender*: A word importing the masculine gender only, shall extend and be applied to females as well as to any other persons defined in this Code.~~

~~————— (7) — *May* is permissive.~~

~~————— (8) — *Non-technical and technical words and phrases*: Words and phrases used in this Code and not specifically defined shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to that particular meaning.~~

~~————— (9) — *Oath* includes an affirmation or declaration if made by a person conscientiously scrupulous of taking an oath.~~

~~————— (10) — *Office* shall mean the use of the title of any officer, employee or office of the City of Takoma Park unless otherwise specifically designated.~~

~~————— (11) — *Operate* includes carry on, keep, conduct, maintain or manage.~~

~~————— (12) — *Or* may be read as "and" if the sense requires it.~~

~~————— (13) — *Owner*, as applied to a building or land, shall include any person who is part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, joint tenant or tenant by the entirety having legal title of the whole or a part of the building or land. The word "owner" shall also include any person having charge, care or control of any building or~~

land as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

~~————— (14) *Person* shall mean a natural person, joint venture partnership, association, club, company, joint stock association, corporation or other organization acting as a group or unit as well as an individual. The word "person" shall also include any manager, trustee, lessee, agent, servant, officer, employee or similar representative thereof of any of them and all political subdivisions and agencies except of the United States of America and the State of Maryland, and every department of these political subdivisions together with every officer and employee thereof while working in the course of his employment.~~

~~————— (15) *Property* shall include both real and personal property.~~

~~————— (16) *Sale* includes any sale, exchange, barter, advertisement or offer for sale.~~

~~————— (17) *Shall or Must* are mandatory.~~

~~————— (18) *Sidewalk* shall mean that portion of a street between the curb line, and the building line of the adjacent property, intended and designed for the use of pedestrians.~~

~~————— (19) *Singular*: A word importing the singular number shall include the plural and the plural, the singular.~~

~~————— (20) *State* shall mean the State of Maryland.~~

~~————— (21) *Street* shall include all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks or any other public ways in this city and its parklands used for vehicular traffic. The word "street" shall also include any public ways which have been or may hereafter be dedicated and opened to public use, or other public property so designated in any law of this state.~~

~~————— (22) *Tenant or Occupant*, as applied to a building or land, shall include any person living, sleeping, cooking, eating in or having actual possession of the whole or part of the building or land, whether alone or with others.~~

~~————— (23) *Tenses*: Words used in the present tense shall include the past and future tenses and vice versa.~~

~~————— (24) *Time Computation*: Unless otherwise specifically provided, the time within which an act is to be done as provided in any section or order issued pursuant to any section of this Code, shall be computed by excluding the first day and including the last, unless it is a Saturday, Sunday or a legal holiday for the city, in which event the period will run until the end of the next day which is neither a Saturday, Sunday or holiday.~~

~~————— (25) *Vehicles* shall include any conveyance or appliance moved over a highway.~~

~~(26) *Week* shall include any conveyance or appliance moved over a highway.~~

~~(27) *Year* shall mean a calendar year.~~

(a) *Interpretation of language.* All words and phrases used in this Code and not specifically defined shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.

(b) *Grammatical interpretation.* The following grammatical rules shall apply to this Code unless it is apparent from the context that a different construction is intended:

(1) *Gender.* Each gender includes the masculine, feminine, and neutral genders.

(2) *Singular and plural.* The singular includes the plural and the plural includes the singular.

(3) *Tense.* Words used in the present tense includes the past and the future tense and vice versa.

(c) *Computation of Time.*

(1) Except when otherwise provided, the time within which an act is required to be done is computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or legal holiday or if the office where the person must file a paper or perform an act is not open during the regular hour of that office, in which case it also is excluded.

(2) If this Code requires or allows a person to act by a specific date, but the specific date is a Saturday, Sunday, legal holiday, or day on which the office where the person must file a paper or perform an act is not open during the regular hours of that office, the person may perform the act on the next day that is not a Saturday, Sunday, legal holiday, or day on which the office is not open during regular business hours.

Sec. 1-102. Definitions.

(a) The following words and phrases, whenever used in this Code, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(1) *Charter or City Charter* means the municipal charter of the City of Takoma Park, Maryland.

(2) *City* means the City of Takoma Park, Maryland, and includes not only the area within the corporate boundaries of the City, but also property outside of this City over which

the City has jurisdiction or control.

(3) *City Manager* means the City Manager of the City of Takoma Park. References to “City Administrator” in this Code mean the City Manager.

(4) *Clerk or City Clerk* means the City Clerk of the City of Takoma Park, Maryland.

(5) *Council or City Council* means the Council of the City of Takoma Park. The Council, which consists of six Councilmembers elected by wards and one Mayor elected at-large, is the governing body of the City.

(6) *County* means Montgomery County, Maryland.

(7) *Designee*, following the use of a title of an official of the City, means the authorized agent, employee, or representative of such official.

(8) *May* is permissive.

(9) *Month* means a calendar month.

(10) *Must and shall* are each mandatory.

(11) *Oath* includes an affirmation or declaration in all cases which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

(12) *Owner*, as applied to any property, means and includes any part owner, joint owner, owner of a partnership interest, life tenant, tenant in common, joint tenant, tenant by the entirety, or entity having legal title of the whole or a part of such property. The word "owner" shall also include any person having charge, care or control of any property as agent of the owner, or as personal representative, executor, administrator, trustee or guardian of the estate of the owner.

(13) *Person* means and includes associations, businesses, clubs, companies, corporations, firms, joint ventures, limited liability companies, organizations, partnerships, trusts, and bodies politic and corporate as well as natural persons.

(14) *Personal property* means and includes all tangible and intangible property other than real property.

(15) *Preceding and following* mean next before and next after, respectively.

(16) *Property* means and includes real and personal property.

(17) *Real property* means and includes lands, tenements, and hereditments.

(18) *Reasonable time or reasonable notice*, in any ordinance or Code provision that requires any act to be done in a reasonable time or reasonable notice to be given, means such time as may be necessary for the prompt performance of such duty, or compliance with such notice.

(19) *Sidewalk* means that portion of a street between the curb line, or the lateral lines of a street where there is no curb, and the adjacent property line, intended for the use of pedestrians.

(20) *State* means the State of Maryland.

(21) *Street* means and includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or any other public ways in the City which have been or may hereafter be dedicated and open to public use.

(22) *Week* means seven (7) calendar days; but publication in a newspaper or other publication of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week.

(23) *Written or in writing* means and includes any representation of words, letters or figures, whether by printing or otherwise, reproduced in a permanent visible form.

(24) *Year* means a calendar year, unless otherwise stated.

Sec. 1-3: 1-103. Reference to *titles*, chapters, articles, or sections; *title of sections*; conflicting provisions Sections.

~~(a) In addition to the rules of construction specified in Section 1-2 of this chapter, the following rules shall be observed in the construction of this Code:~~

(a) ~~(1)~~ All references to *titles*, chapters, articles, or sections are to the *titles*, chapters, articles, and sections of this Code, unless otherwise specified.

(b) *Titles and captions are not part of this Code. Titles and captions only advise the reader of the content of each section.*

(c) ~~(2)~~ If the provisions of different chapters ~~or Articles~~ of this Code conflict with or contravene each other, the provisions of each chapter ~~or Article~~ shall prevail as to all matters and questions growing out of the subject matter of that chapter ~~or Article~~.

(d) ~~(3)~~ If different sections of the same chapter are clearly in conflict, the provisions of the section which is last in numerical order shall prevail unless the construction is inconsistent with the meaning of that chapter.

~~Sec. 1-4. Headings and catchlines not to affect the meaning of any provision.~~

~~——— All designations and headings of chapters, Articles or divisions and all catchlines of sections or subsections are intended only for convenience in arrangement and as mere catchwords to indicate the contents of such chapters, Articles, divisions, sections or subsections. They shall not be deemed or taken to be any part of or title of such chapters, Articles, divisions, sections or subsections; nor, unless expressly so provided, shall they be so deemed upon amendment or reenactment; nor shall they be construed to alter the otherwise intended meaning of any provision of this Code.~~

~~Sec. 1-5. Code provisions as continuations of existing ordinances.~~

~~——— The provisions appearing in this Code, so far as they are the same as the provisions of the ordinances on which they are founded and ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.~~

~~Sec. 1-6.~~ 1-104. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed.

~~Sec. 1-7. Interpretation of Section numbers.~~

~~——— In reading a Section number from left to right, the digit or digits to the left of the dash refer to the Chapter number of this Code. The digits to the right of the dash refer to the particular Section within the Chapter. Figures to the right of a decimal point shall indicate new Sections or Chapters inserted between existing Sections or Chapters, as the case may be. The decimal system shall be used in maintaining the numerical order of such Sections and Chapters.~~

~~Sec. 1-8.~~ 1-105. Effect on past acts and obligations.

~~Neither the adoption of this Code or the repeal hereby of any ordinance of this City shall in any manner affect the prosecution for violation of ordinances which violations were committed prior to the effective date hereof. It shall not be construed as a waiver of any license or penalty at the effective date due and unpaid under such ordinance, or be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof. It shall not affect the validity of any bond or cash~~

~~deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect.~~

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this Code, except as otherwise provided.

~~Sec. 1-9. Same offense punishable by different Sections of Code.~~

~~—In cases where the same offense is made punishable or is created by different clauses or Sections of this Code, the Corporation Counsel may elect under which to proceed, but not more than one (1) recovery shall be had against the same person for the same offense.~~

~~Sec. 1-10.~~ 1-106. Prohibited acts include causing and permitting. ; causing, abiding or concealing..

Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

~~Sec. 1-11.~~ 1-107. References includes amendments.

Any reference in this Code to any federal, state, or County law or to a City ordinance or provision of this Code shall mean any such law, ordinance or provision as now existing or hereafter amended.

~~Sec. 1-12.~~ 1-108. Acts by agents or designees. deputy.

Whenever a power is granted to or a duty is imposed upon a City public officer or employee, the power may be exercised or the duty may be performed by an authorized agent or designee, a deputy of such officer or employee or by a person otherwise duly authorized pursuant to law or ordinance, unless this Code expressly provides otherwise.

~~Sec. 1-13. Territorial applicability.~~

~~—This Code shall refer only to the omission or commission of acts within the territorial limits of the City and to that territory outside this City over which the City has jurisdiction or control by~~

~~virtue of any Constitutional or Charter provisions, or any law.~~

Sec. 1-14. ~~Notices, reports, statements, applications and records to be written in English.~~

~~— All notices, reports, statements, applications and records required or authorized by this Code shall be made in writing in the English language, unless specifically provided otherwise.~~

Sec. 1-15. ~~Service of notice; proof of service.~~

~~— (a) — Unless otherwise specifically indicated, whenever a notice is required to be given pursuant to any Section of this Code, that notice shall be given either by personal delivery to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his last known residence or business address, or by any other method of delivery approved by law.~~

~~— (b) — Proof of giving notice shall be made either by affidavit of the person over 18 years of age or over who actually accomplished personal service or by a return receipt signed by the recipient notified by United States Mail, or by any other method of proof approved by law.~~

Sec. 1-17: 1-109. Prosecuting Violations of the Charter, Code and regulations.

The City may prosecute any violation of the Charter or Code or any ordinance or regulation of the City as a municipal infraction. Alternatively, the City may provide that violations of any provision of the Charter or Code or any ordinance or regulation shall be punishable as a misdemeanor. Alternatively, the city may prosecute the person for committing a misdemeanor if the Charter, Code or regulations state that a violation of that provision is a misdemeanor. Each day that a violation continues is a separate offense.

Sec. 1-18: 1-110. Warning notices.

(a) ~~When a warning notices required.~~ Unless the Charter, Code or regulations require the cit to issue a warning notice before issuing a citation, the city is not required to issue a warning notice. A warning notice is not required prior to the issuance of a citation for a municipal infraction unless the Charter, Code or regulation expressly requires a warning notice prior to issuing a citation for a specific offense. The City may, at the discretion of the City Manager, issue a warning notice before issuing a citation.

(b) ~~Delivery and contents of a warning notice.~~ Unless the Charter, Code or regulations are inconsistent with this subsection, when a warning notice is required:

~~— (1) — The City must issue the notice 48 hours before the citation is issued.~~

- ~~_____ (2) The notice must describe what:~~
- ~~_____ (A) The violation is:~~
- ~~_____ (B) The person can do to correct the violation.~~
- ~~_____ (C) The penalty is for the violation.~~
- ~~_____ (3) The City must give the person charged with the violation a copy of the citation in person or by mail at the last known address of the person.~~

Sec. ~~1-19~~ 1-111. Municipal infractions.

(a) *Issuing citations.* The City ~~Administrator~~ **Manager** shall designate enforcement officers who shall have primary responsibility for issuing municipal infraction citations. An enforcement officer may issue a citation for a municipal infraction if the officer:

- (1) Observes a violation of the ~~City~~ **Takoma Park** Code; or
- (2) Receives an affidavit citing the facts of the alleged infraction.

(b) *Contents of citations.* The citation must contain:

(1) A certification by the enforcement officer that the information in the citation is true or that the citation is based on an affidavit.

- (2) The name and address of the person charged.
- (3) A description of the nature of the infraction.
- (4) The location and time ~~of that~~ the infraction **occurred**.
- (5) The amount of ~~fine~~ **the infraction fine assessed**.
- (6) The manner, location and time in which the fine may be paid **to the City**.
- (7) ~~An explanation of the~~ **Notice of the** person's right to elect to stand trial **for the infraction**.
- (8) ~~An explanation of the consequences~~ **Notice of the effect** of failing to pay the **assessed** fine or demand a trial ~~on time~~ within the prescribed time.

(c) *Serving citations.* ~~The enforcement officer who issues a citation must deliver the citation to the person charged by personal delivery or by certified mail. For real property related~~

violations, if proof is made by affidavit that good faith efforts to serve the citation on the person charged have not succeeded, then the citation may be served by:

- ~~_____ (1) Regular mail to the last known address of the person charged; and~~
- ~~_____ (2) Posting of the citation at the property where the infraction occurred or is occurring, and, if located in the city, at the residence or place of business of the person charged.~~

The citation shall be served on the person charged by:

- (1) Personal delivery;
- (2) Certified mail addressed to the last known address of the person to be served if the return receipt is returned indicating that the certified mail was received by the recipient;
- (3) Leaving the citation at the person's residence with a person of suitable age and discretion if the person to be served is an individual; or
- (4) For real property-related violations, sent by regular first-class mail to the last known address of the person to be served and posted in a conspicuous location on the real property where the infraction occurred or is occurring and, if located in the City, posted at or delivered to the residence or place of business of the person to be notified.

(d) *Methods of service not exclusive.* The methods of service provided in (c) above are in addition to and not exclusive of any other means of service that may be provided by state law or court rules for obtaining jurisdiction over a defendant.

(e) ~~(d)~~ *Paying a fine.* Within 20 days of service of the citation, a person charged in a citation may pay the fine to the City **Finance Office** ~~Treasurer~~.

(f) *Election to stand trial.* ~~(e) Demanding a trial.~~ Instead of electing to paying the fine, a person charged in a citation may notify the City in writing within 15 days after service of the citation of the person's intent to stand trial for the infraction. **The written notice of election to stand trial must be given within 15 days after service of the citation.**

(g) ~~(f)~~ *Effect of failing to pay the fine or demand a trial.* If a person charged in a citation fails to pay the fine within 20 days of service of the citation and fails to deliver to the City a written notice of the intent to stand trial within 15 days of service of the citation, the person is liable for the assessed fine. The City may double the fine to an amount not to exceed \$1,000 **the maximum fine allowable by State law** and request adjudication of the infraction through the District Court. The procedures for the trial of municipal infractions **citations** shall be as set forth in Article 23A, § 3, of the Annotated Code of Maryland, as amended from time to time.

(h) ~~(g)~~ *Amount of fine.*

(1) The **maximum** amount of the fine for a municipal infraction is the amount shown in this subsection.

Class of Offense	Fine for Initial Offense	Fine for Repeat Offenses
AA	\$1,000	\$1,000
A	500	1,000
B	400	800
C	200	400
D	75 100	150 200
M E	100 75	200 150
N F	25 50	50 100
θ G	10 25	20 50

(2) If the Code does not specify the class of the offense, it is a Class A offense.

(3) Unless provided otherwise, to be a repeat offense, an offense must be committed within one year after an initial offense. The payment of the fine for a municipal infraction is not an admission of guilt in any City licensing or administrative proceeding, but does establish the “initial offense” charged in the citation for the purpose of calculating the fine for a repeat offense under subsection (h)(1) above.

(4) Each day that a violation continues is a separate offense for which a citation may be issued.

Sec. ~~1-20~~ 1-112. Misdemeanors.

(a) *Responsibility for enforcement.* The Police Department is responsible for issuing **criminal** citations or making arrests for violations **of the Takoma Park Code that are designated as** that the city prosecutes as misdemeanors. A police officer has the discretion to issue a citation or **make an** arrest. ~~Code enforcement officers will assist the Police Department as directed by the City Administrator.~~

(b) *Amount of penalty.*

(1) The **maximum penalty is as** amount of the penalty is the amount shown in this subsection.

Class of Offense	Fine	Jail Term (days) <u>Imprisonment</u>
A	\$1,000	180 6 months
B	500	90 3 months

C	200	30	1 month
D	100	5	1 week

(2) If the Charter, Code or regulations do not specify the class of the misdemeanor offense, it is a Class A misdemeanor offense.

(3) The City may prosecute a misdemeanor offense as a civil offense, Class A. In exercising its discretion on this matter, the City must consider the severity of the particular offense.

(c) ~~*Serving citations.* A police officer may deliver a citation in person or by certified mail.~~ The service and trial of misdemeanor criminal citations is governed by State law and rule of court.

Sec. 1-113. Other remedies.

(a) In addition to or instead of any other remedy allowed by law, the City may enforce any City law, or seek to correct any violation of City law, by seeking appropriate injunctive, declaratory, or other relief from any court with jurisdiction.

(b) Any court with jurisdiction may temporarily or permanently enjoin any violation of City law, order any person to correct any violation of City law, or order any other appropriate remedy.

Sec. ~~1-16~~ 1-114. Severability of parts of the Code.

~~It is the intention of the Mayor and the Council that, if any section, paragraph, sentence, clause or word of this Code shall be declared unconstitutional or invalid for any reason by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs or sections of this Code, since the same would have been enacted by the Council without the incorporation in this Code of any unconstitutional or invalid work, clause, sentence, paragraph or section.~~

(a) *Severable provisions.* Except as provided under subsection (b), it is the intent of the Council that the provisions of this Code, and of all City ordinances, resolutions, and regulations, are severable. If any provision is declared unconstitutional or otherwise invalid or inapplicable by a court of competent jurisdiction, the remainder of the Code, ordinance, resolution or regulation remains in effect.

(b) *Nonseverable provisions.* The Council may expressly provide in this Code or by ordinance, resolution or regulation that certain provisions are not severable.

